

**BAKER & HOSTETLER LLP**

45 Rockefeller Plaza  
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*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC and  
The Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES, LLC,

Defendant.

In re:

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

DIANE WILSON,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

(Substantively Consolidated)

Adv. Pro. No. 10-04774(BRL)

**TRUSTEE'S REQUEST TO ENTER DEFAULT**

To: CLERK OF THE COURT  
UNITED STATES BANKRUPTCY COURT

Irving H. Picard (the "Trustee"), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities, LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and Bernard L. Madoff, by and through his counsel, Baker & Hostetler LLP, respectfully requests that the Clerk of the Court issue a Certificate of Default against Defendant Diane Wilson, pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, made applicable to this Adversary Proceeding by Rule 7055 of the Federal Rules of Bankruptcy Procedure, for failure to plead or otherwise defend the above-captioned action as it fully appears from the Court file and from the attached Affidavit.

**WHEREFORE**, the Trustee respectfully requests that this Court grant the Trustee's Motion in its entirety and provide for such other relief as this Court deems just and proper.

Dated: New York, New York  
September 9, 2015

Respectfully submitted,

Of Counsel:

**BAKER & HOSTETLER LLP**  
811 Main Street, Suite 1100  
Houston, Texas 77002-0518  
Telephone: 713.751.1600  
Facsimile: 713.751.1717  
Dean D. Hunt  
Email: [dhunt@bakerlaw.com](mailto:dhunt@bakerlaw.com)

/s/ Nicholas J. Cremona

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CORPORATION,

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Plaintiff,

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Adv. Pro. No. 08-01789 (SMB)

SIPA Liquidation

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Adv. Pro. No. 10-04774(BRL)

**AFFIDAVIT SUPPORTING ENTRY OF DEFAULT**

STATE OF TEXAS                 )  
  ) ss:  
COUNTY OF HARRIS         )

Farrell Hochmuth, being duly sworn, hereby attests as follows:

1. I was admitted pro hac vice into this Court and am a partner at the firm of Baker & Hostetler LLP, which is counsel for Irving H. Picard ("Trustee"), Trustee for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC ("BLMIS") under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* ("SIPA") and the estate of Bernard L. Madoff, individually.

2. On December 1, 2010, the Trustee commenced this adversary proceeding by filing a complaint (the "Complaint") against Diane Wilsonn (the "Defaulting Defendant"). (Dkt. No. 1.) The Complaint asserted claims pursuant to sections 78fff(b), 78FFF-1(a) and 78fff-2(c)(3) of SIPA, sections 548(a), 550(a), and 551 of the United States Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.*, and other applicable law, seeking the avoidance and recovery of fraudulent transfers in connection with certain transfers of property by BLMIS to or for the benefit of the Defaulting Defendant. (*Id.*).

3. On March 14, 2011, the Clerk of this Court issued summons upon the Defaulting Defendant. (Dkt. No. 3).

4. On March 17, 2011 and September 7, 2011, the Trustee, in accordance with Bankruptcy Rule 7004(b) of the Federal Rules of Bankruptcy Procedure, timely served the Summons and Complaint upon the Defaulting Defendant. (*See* Dkt. Nos. 3-8). An Affidavit of Service evidencing proper and timely service was filed with the Court. (*See* Ex. A., Affidavit of Service; Dkt. No. 5; *see* Exhibit B, Affidavit of Service; Dkt. No. 8).

5. Pursuant to the Order (1) Establishing Litigation Case Management Procedures For Avoidance Actions And (2) Amending The February 16, 2010 Protective Order governing the litigation of certain avoidance actions, including this adversary proceeding, and the Order Granting in Part and Denying in Part Defendants' Motion to Dismiss (the "Order") entered on July 16, 2015, the time by which the Defaulting Defendant may answer or otherwise move with respect to the Complaint expired on August 16, 2015. (*See* Dkt. No. 28). The Order dismissed all of the Trustee's claims other than those asserted under Section 548(a)(1)(A).

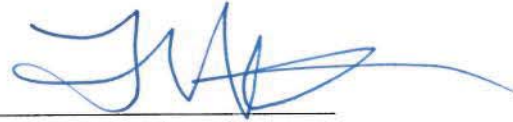
6. On September 4, 2015 the Trustee filed a Notice of Voluntary Dismissal with Prejudice of Certain Claims in Adversary Proceeding, which dismissed Counts Two through Six only of the Trustee's Complaint in the above-captioned adversary proceeding. (*See* Dkt. No. 29).

7. Despite being duly served with the Summons and Complaint, the Defaulting Defendant did not file an answer, move, or otherwise respond to the Complaint on or before August 16, 2015.

8. Upon information and belief, Defaulting Defendant Diane Wilson is neither an infant nor incompetent.

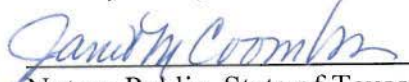
9. On September 8, 2015, I performed a search on the Department of Defense Manpower Data Center (DMDC). Upon searching the information data banks of DMDC, the DMDC does not possess any information indicating that Defaulting Defendant Diane Wilson is currently on active duty as to all branches of the Military. Defaulting Defendant Diane Wilson is not believed to be a United States resident.

10. I declare under penalty of perjury that the foregoing is true and accurate to the best of my knowledge, information and belief.



Farrell Hochmuth

Sworn to before me this  
9<sup>th</sup> day of September, 2015



Notary Public, State of Texas

My Commission Expires on 5/19/17



**EXHIBIT A**

UNITED STATES BANKRUPTCY COURT  
Southern District of New York

-----  
SECURITIES INVESTOR PROTECTION  
CORPORATION,

Adv. Pro. No. 08-01789 (BRL)

Plaintiff-Applicant,

SIPA LIQUIDATION

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

(Substantively Consolidated)

Defendant.

-----  
In re:

BERNARD L. MADOFF,

Case No. 09-11893 (BRL)

Debtor.

-----  
IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Adv. Pro. No. 10-04774 (BRL)

Plaintiff,

v.

DIANE WILSON,

Defendant.

-----  
**AFFIDAVIT OF SERVICE**

STATE OF NEW YORK            )  
  ) ss:  
COUNTY OF NEW YORK        )

I, Yan Fayerman declare:

1. I am over the age of 18 years and not a party to these chapter 11 cases.
2. I am employed by Donlin, Recano & Company, Inc., 419 Park Avenue South, Suite 1206, New York, NY 10016.
3. On the 15<sup>th</sup> day of March, 2011, I caused a true and accurate copy of the:
  - (i) "Complaint", along with the relevant exhibits (Docket No. 1); and the
  - (ii) "Notice of Applicability of the Order Approving Case Management Procedures for Avoidance Actions" (Docket No. 2); and the



- (iii) "Summons and Notice of Pretrial Conference in An Adversary Proceeding" (Docket No. 3); and the
- (iv) "Order (1) Establishing Litigation Case Management Procedures for Avoidance Actions and (2) Amending the February 16, 2010 Protective Order" dated November 11, 2010; and the
- (v) "Avoidance Action Executive Summary Letter dated December 20, 2010"; and the
- (vi) "Third Amended Notice of Omnibus Avoidance Action Hearing Dates",

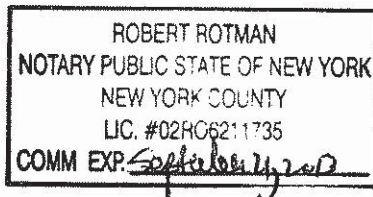
to be served upon the parties listed on Exhibit 1, attached hereto, via First Class US Mail.

- 4. Said documents were securely enclosed in postage prepaid envelopes and delivered to an office of the United States Postal Service for delivery by First Class Mail.
- 5. I declare under penalty of perjury that the foregoing is true and correct to the best of my personal knowledge. Executed this 15<sup>th</sup> day of March, 2011 at New York, New York.

By *Yan Fayerman*  
Yan Fayerman

Sworn before me this  
15<sup>th</sup> day of March, 2011

*Robert Rotman*  
Notary Public



Date : 3/15/2011

<sup>17</sup>  
Adv Pro No: 10-04774 (BRL)

Page # : 1

**Exhibit 1**  
**Redacted Version**

DIANE WILSON

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HELEN DAVIS CHAITMAN, ESQ.  
BECKER & POLIAKOFF, LLP  
45 BROADWAY  
NEW YORK NY 10006

Counsel - 000844 005373

**EXHIBIT B**

**UNITED STATES BANKRUPTCY COURT**  
Southern District of New York

-----  
SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

Adv. Pro. No.08-01789 (BRL)  
SIPA LIQUIDATION

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant,

(Substantively Consolidated)

-----  
In re:

BERNARD L. MADOFF,

Debtor

Case No.09-11893 (BRL)

-----  
IRVING H. PICARD, Trustee for the Liquidation  
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

Adv. Pro. No.10-04774 (BRL)

v.

DIANE WILSON,

Defendant,

**AFFIDAVIT OF SERVICE**

I, **RONALD M. MWANIA** of Post Office Box Number 74580 - 00200, Nairobi in the Republic of Kenya do hereby make oath and state as follows:

1. **THAT** I am a Licensed Process-Server duly authorised to serve Court Process.
2. **THAT** on 8<sup>th</sup> August 2011, I received from Messrs Mohamed Madhani & Company Advocates 2 copies of Second Summons and Notice of Pre-trial Conference in an Adversary Proceeding dated 4th August 2011, Notice of Applicability of the Order Approving Litigation Case Management Procedures for avoidance actions dated 12<sup>th</sup> November 2010, Complaint dated 12<sup>th</sup> November 2010 and the exhibits attached thereto, a letter dated 4<sup>th</sup> August 2011, Order (1) establishing Litigation Case Management Procedures for avoidance actions and (2) amending the February 16, 2010 Protective Order dated 10<sup>th</sup> November 2010 and the exhibits attached thereto and Third Amended Notice of Omnibus Avoidance Action Hearing dates dated 16<sup>th</sup> February 2011 with instructions to effect service upon the Defendant herein, Ms. Diane Wilson.

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3. **THAT** on the same day I was given a letter by James Rimui Advocate practising in the firm of Messrs Mohamed Madhani & Company Advocates, the Plaintiff's Attorney's agent, with details on where to find the Defendant herein, Ms. Diane Wilson.
4. **THAT** on the same day, I travelled to Sangare Ranch, Mweiga, North East Region in the Republic of Kenya which is approximately 200km from Nairobi with a view to effecting service of the Court Process upon the Defendant herein, Ms. Diane Wilson.
5. **THAT** at around 1430 hours, at the reception of Sangare Ranch, I introduced myself and the purpose of my visit to a gentleman of African origin who disclosed his name as Mr. Tanui, the farm Manager of Sangare Ranch. He then told me that the Defendant, Ms. Diane Wilson was not at the Ranch but he gave me her cell phone number and advised me to contact her.
6. **THAT** at around 1445 hours I telephoned Ms. Diane Wilson and explained to her the purposes of my call and the visit to Sangare Ranch. She informed me to serve the Court Process upon her lawyers in Nairobi, Messrs Kaplan & Stratton Advocates.
7. **THAT** at around 1500 hours, an Advocate from Messrs Kaplan & Stratton Advocates who disclosed his name as Mr. Fred Ojiambo, Senior Counsel (SC), a senior partner in the said firm called me and requested me to serve him on behalf of his client Ms. Diane Wilson.
8. **THAT** on 9<sup>th</sup> August 2011 I came back to Nairobi and at around 11.00 a.m I proceeded to the offices of Messrs Kaplan & Stratton Advocates situated at Williamson House (9<sup>th</sup> Floor), Nairobi. In the said office, I introduced myself and the purposes of my visit to a lady who disclosed her name as Nancy Mbugua, an employee of Messrs Kaplan & Stratton Advocates.
9. **THAT** after confirming to me she has instructions from Mr. Fred Ojiambo, (SC) to accept service on behalf of the Defendant, Ms. Diane Wilson, I tendered to her copies of the above-mentioned Court process and she duly accepted service on behalf of the Defendant by way of retaining copies thereof and signing and stamping on the principal copies which I herewith return duly served and signed.

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10. THAT what is stated herein above is true to the best of my knowledge and belief.

SWORN by the said )

RONALD M. MWANIA )

at NAIROBI - KENYA )

this 24th day of August, 2011 )

) DEPONENT

BEFORE ME )

ALICE JONATHAN GULENYWA )

ADVOCATE )

COMMISSIONER FOR OATHS/NOTARY PUBLIC )

P. O. Box 22746-00400 NAIROBI )

NOTARY PUBLIC )

DRAWN BY

MOHAMED MADHANI & COMPANY

ADVOCATES

NATION CENTRE (14<sup>TH</sup> FLOOR, TOWER A)

KIMATHI STREET

P.O BOX 48539-00100

NAIROBI, KENYA



REPUBLIC OF KENYA

**JUDICIARY**

**AUTHENTICATION OF SIGNATURE**

**TO ALL TO WHOM THESE PRESENTS SHALL COME GREETING:**

**I, STEPHEN MURIGI KIBUNJA Chief Court Administrator of the High Court of Kenya,**

**DO HEREBY CERTIFY THAT ALICE JONATHAN GULENYWA**

**whose signature and seal are endorsed on the document annexed hereto is a Notary Public, duly**

**admitted and to all Acts, Instruments and other Writings by him signed and attested full**

**faith is and ought to be given in Court and without. IN FAITH AND TESTIMONY the**

**Seal of the Court is hereunto put and affixed.**

**Dated at Nairobi this.....Twenty fourth day of August Two Thousand and Eleven.**

  
**CHIEF COURT ADMINISTRATOR**



UNITED STATES BANKRUPTCY COURT  
Southern District of New York

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

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Adv. Pro. No. 08-01789 (BRL)

SIPA LIQUIDATION

(Substantively Consolidated)

Case No. 09-11893 (BRL)

Adv. Pro. No. 10-04774 (BRL)

**SECOND SUMMONS AND  
NOTICE OF PRETRIAL CONFERENCE  
IN AN ADVERSARY PROCEEDING**

YOU ARE SUMMONED and required to submit a motion or answer to the complaint which is attached to this summons to the clerk of the bankruptcy court within 60 days after the date of issuance of this summons pursuant to an Order of the Bankruptcy Court dated November 10, 2010 (the "Procedures Order") and the Notice of Applicability filed in this adversary proceeding (each of which are enclosed herewith). However, if you were served with this summons in a country outside the United States, you are required to respond to the complaint within 180 days after the date of issuance of this summons pursuant to the above-referenced Procedures Order and Notice of Applicability.

<b>Address of Clerk:</b>	<b>Clerk of the Court United States Bankruptcy Court Southern District of New York One Bowling Green New York, NY 10004-1408</b>
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At the same time, you must also serve a copy of the motion or answer upon the plaintiff's attorney.

<b>Name and Address of Plaintiff's Attorney:</b>	<b>David J. Sheehan Marc E. Hirschfield Baker &amp; Hostetler LLP 45 Rockefeller Plaza New York, NY 10111</b>
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If you make a motion, your time to answer is governed by Bankruptcy Rule 7012 and the Procedures Order.



YOU ARE NOTIFIED that a pretrial conference of the proceeding commenced by the filing of the complaint will be held at the following time and place:

United States Bankruptcy Court Southern District of New York One Bowling Green New York, NY 10004-1408	Room: Courtroom 623 (BRL), One Bowling Green, New York, NY 10004-1408  Date and Time: <b>To be determined by the Court</b>
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IF YOU FAIL TO RESPOND TO THIS SUMMONS, YOUR FAILURE WILL BE DEEMED TO BE YOUR CONSENT TO ENTRY OF A JUDGMENT BY THE BANKRUPTCY COURT AND JUDGMENT BY DEFAULT MAY BE TAKEN AGAINST YOU FOR THE RELIEF DEMANDED IN THE COMPLAINT.

Dated: 8/4/11

Vito Genna

*Clerk of the Court*

By: /s/ Tiffany Campbell

*Deputy Clerk*



Nancy mbuqua  
Received for and on behalf  
of Fred N. Ojiambo Advocate  
for Diane Wilson.